



City of Somerville

PLANNING BOARD

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Planning Board
FROM: Planning, Preservation & Zoning Staff
SUBJECT: 304 Somerville Ave, P&Z 21-087
POSTED: May 4, 2022

RECOMMENDATION: Approve with Conditions (SP for Cannabis Retail Sales Use)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from Planning, Preservation & Zoning Staff to the Review Board members.

This memo summarizes the development review application submitted for 304 Somerville Ave, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance, and provides related analysis or feedback as necessary. The application was deemed complete on March 18, 2022, and is scheduled for a public hearing on May 19, 2022. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

Holistic Industries Inc., D/B/A Liberty, proposes to establish a Cannabis Retail Sales use in the Mid-Rise 5 District, which requires a Special Permit.

SUMMARY OF PROPOSAL

Holistic Industries Inc., D/B/A Liberty, is proposing to establish a Cannabis Retail Sales principal use which will serve both medical and recreational customers. The Applicant previously received a special permit for and currently operates a medical-only dispensary at this location. No exterior changes to the structure are currently proposed. The proposed development will produce 4 short-term bicycle parking spaces.

ADDITIONAL REVIEW NECESSARY

304 Somerville Ave is located on a Pedestrian Street and in the 0.5mi Transit Area in the Mid Rise 5 (MR5) zoning district in the Union Square neighborhood represented by Ward 2 Councilor JT Scott. Councilor Scott has recused himself from this project and Ward 3 Councilor Ben Ewen-Campen has been acting as Ward Councilor instead.

Establishing a Cannabis Retail Sales use in the MR4 district requires a Special Permit. The Planning Board is the decision-making authority for all (non-variance) discretionary or administrative permits required for the MR4 zoning district.

BACKGROUND

In January 2018, the Applicant received a Special Permit from the Planning Board to establish a Medical Marijuana Facility at this location (PB 2017-20). This approval was explicitly for a Medical Marijuana Facility (SZO §7.15) as Recreational Marijuana Facilities (SZO §7.16) were not permitted by the Ordinance at that time. The addition of recreational sales to an existing medical sales location would have required a Special Permit under SZO §7.16, as medical and recreational facilities were regulated as distinct uses under that Ordinance.

On December 12, 2019, the Somerville Zoning Ordinance governing the previously issued Special Permit was repealed and replaced by an entirely new ordinance. Under this new ordinance, marijuana retail facilities are not distinguished based on whether they sell medical or recreational products.

Therefore, to add recreational sales at this location the Applicant must apply for a new Special Permit under the current zoning ordinance. If granted, the Cannabis Retail Sales Special Permit will encompass both medical and recreational sales at the location, allowing the Applicant to abandon their previous Special Permit from 2018. If that permit is abandoned, the Applicant will no longer be bound by the conditions of approval included there. Therefore, Staff has reviewed PB 2017-20 to determine which conditions may still be relevant to how the use operates at this site but found that the conditions recommended in this memo encompass all the potentially relevant conditions from that previous approval.

NEIGHBORHOOD MEETINGS

The required neighborhood meeting was hosted by Ward 3 Councilor Ben Ewen-Campen and the applicant on September 8, 2021, via an online meeting platform.

ANALYSIS

The proposal is substantially consistent with the proposal reviewed by the MAC when issuing the recommendation.¹

As noted above, the Applicant was approved for medical cannabis sales at this location in 2018 and have operated here without any significant issues since shortly thereafter. The current proposal would permit the Applicant to sell cannabis to an expanded customer base but does not include any major changes to operations or the site. The current appointment-only model will continue and the view from the public way will be

¹ The MAC's Round 2 Recommendation can be found here:
<https://s3.amazonaws.com/ifa.somervillema.gov/documents/planning/MAC%20Round%20%20Recommendation.pdf>

unchanged.² Five additional points-of-sale (POS) are proposed (for a total of ten POS), but these will be accommodated within the existing sales floor. If the Applicant wishes to move away from the appointment-only model in the future, an updated TIS will be required.

The Mobility Division has reviewed and provided comments (shown under Permit Conditions) to PPZ Staff regarding the Applicant's submitted Transportation Access Plan (TAP) and Transportation Impact Study (TIS). As the data collection for this TIS was done during February and March of this year (outside the months required by the City's TIS guidelines), Staff have included a condition requiring additional data collection during April, May, September, or October. This additional data collection is distinct from the requirement that a new TIS be done if and when the Applicant wishes to move away from the appointment-only model in the future.

In addition to continuing the appointment-only model, the Applicant included several Transportation Demand Management (TDM) strategies in their TIS which have been included in the list of recommended conditions.³ These include the creation of a Transportation Demand Management Coordinator, commitments to schedule deliveries at off-peak times, a commitment to be appointment-only, and various methods of encouraging public transit or bicycle usage by employees and customers.

One facet of this application that is unique compared to previous applications for Cannabis Retail Sales uses reviewed by the Board is its proximity to an Education Services principal use. The Applicant has provided a map showing the location of three nearby schools in relation to 304 Somerville Ave; the closest (the Argenziano School) is approximately 360 feet away from this property. In order to grant a Special Permit to a Cannabis Retail Sales use within five hundred feet (500') of an Education Services principal use, the Board must find that "the cannabis retail sales use is not detrimental to the Education Services use." As a Cannabis Retail Sales use has operated at this location without incident for over two years and the current proposal does not include operational or design changes, Staff believes that the Board can make the required finding that the proposed use is not detrimental to any Education Services uses that are within 500'.

CONSIDERATIONS & FINDINGS

The Planning Board is required by the Somerville Zoning Ordinance to deliberate each of the following considerations at the public hearing. The Board must discuss and draw conclusions for each consideration, but may make additional findings beyond this minimum statutory requirement.

² The sales floor is currently blocked from public view by opaque film covering the windows. While this would not be permitted if it was a new proposal, the fact that the exterior of the building will not be modified in any way means that this approach is allowed to continue.

³ One of these commitments is to prioritize hiring locally. A condition related to this TDM has not been recommended, in part because it has the potential to conflict with the commitments the Applicant is already bound by in their Host Community Agreement (HCA).

Cannabis Retail Sales Use Special Permit Considerations

1. The comprehensive plan and existing policy plans and standards established by the City.
2. The intent of the zoning district where the property is located.
3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
4. Location, visibility, and design of the principal entrance.
5. Potential impacts on any Educational Services uses within five hundred (500) feet.

Information relative to the required considerations is provided below:

Cannabis Retail Sales Use Special Permit

- 1. The comprehensive plan and existing policy plans and standards established by the City.*

The proposal will help to achieve the following goals from SomerVision 2040, the City's Comprehensive Master Plan:

- Promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs.

In addition, the proposal will help achieve the goals of the Union Square Neighborhood Plan, including the following:

- The City should utilize land use planning and zoning to increase the commercial tax base.
- The City should promote job creation, with a goal of reaching a one-to-one ratio between jobs and resident workforce in Somerville within the next 20 years.

- 2. The intent of the zoning district where the property is located.*

The proposal is consistent with the intent of the MR5 zoning district is, in part: "To create, maintain, and enhance areas appropriate for moderate scale, multi-use and mixed-use buildings and neighborhood- and community-serving uses."

- 3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.*

The location is not within the Transit Area (it is slightly more than 0.25mi away from the new Union Square Green Line Station), but is nevertheless well-served by public transit. The proposal will not create any new motor vehicle parking spaces, but will produce four

(4) new short-term bicycle parking spaces for use by customers and employees. The Applicant will implement several Transportation Demand Management strategies as recommended by the Mobility Division that will prevent any significant negative impacts on traffic and circulation patterns in the neighborhood for all transportation modes. It will be appointment-only so no queuing on public ways is anticipated.

4. Location, visibility, and design of the principal entrance.

The principal entrance is on a stretch of Somerville Ave which is designated as a Pedestrian Street. The entrance will be highly visible, but will fully shield the interior of the building from public view through the use of opaque film covering the windows. The design of the existing entrance, including signage, will not change as part of this proposal.

5. No detrimental impact on any Educational Services uses within five hundred (500) feet.

The Applicant has operated a cannabis sales use serving medical clients at this location for over 3 years. Staff has not been informed of this use having any negative impacts on the nearby schools during that time. Granting this Special Permit would effectively enable the Applicant to continue their current operations but serve a wider customer base.

PERMIT CONDITIONS

Should the Board approve the required Special Permit to establish a Cannabis Retail Sales use, Planning, Preservation, & Zoning Staff recommends the following conditions:

Mobility

- Four (4) additional short-term bicycle parking spaces must be provided in accordance with Section 11.1 Bicycle Parking of the Somerville Zoning Ordinance.
- Traffic counts must be taken in the TIS study area during April, May, September, or October and submitted to the Mobility Division.
- Retail sales to walk-in customers are prohibited. Customer visits must be by appointment only.
- Any change to the means of sales requires a new Transportation Impact Study (TIS). The scope of the TIAS must be approved by the Director of Mobility.
- As voluntarily committed to in the TIS, Holistic Industries Inc. shall post bus schedule information for employees in an easily accessible location.
- As voluntarily committed to in the TIS, Holistic Industries Inc. shall use on-site parking or loading areas for all deliveries.
- As voluntarily committed to in the TIS, Holistic Industries Inc. shall designate a TDM coordinator.

- Holistic Industries Inc. shall commit to annual monitoring and reporting of the appointment-only recreational marijuana operations model. The annual report shall include at least the following information:
 - A statistically valid travel surveys of employees and customers
 - A status update on the implementation of all TDM measures.
- Holistic Industries Inc. shall direct all deliveries to occur outside of 7:30am to 9:30am on weekdays; 4:30pm to 6:30pm on weekdays; and 11am to 1pm on Saturdays to every extent practicable.
- Holistic Industries Inc. shall post information about non-vehicular services available in the area on the website and in materials posted at the store.
- Holistic Industries Inc. shall provide a TransitScreen (or its substantial equivalent) displaying real time MBTA and bike share information in a location that is visible to customers.
- Holistic Industries Inc. shall provide incentives to customers who take non-vehicular or public transportation modes to the site.
- Holistic Industries Inc. shall provide employees 100% subsidized Bluebikes public bikeshare memberships, subject to annual rate increases.
- Holistic Industries Inc. shall provide employees 100% subsidized MBTA passes, or up to the federal maximum Qualified Transportation Fringe benefits per current U.S. Internal Revenue Code (\$270 per month in 2021), subject to annual increases.

Permit Validity

- Approval is limited to Holistic Industries Inc. and is not transferable to any successor in interest.
- This Decision must be recorded with the Middlesex South Registry of Deeds.
- This permit is valid subject to Holistic Industries Inc. having a fully executed and active Host Community Agreement with the City of Somerville.
- A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

Public Record

- A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must submitted to the Planning, Preservation & Zoning Division for the public record.
- One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.